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# IRS' Efforts to Deal With Integrity and Ethics Issues

Statement of

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Before the
Subcommittee on Commerce, Consumer and Monetary Affairs
Committee on Government Operations
House of Representatives

## IRS' EFFORTS TO DEAL WITH INTEGRITY AND ETHICS ISSUES

SUMMARY OF STATEMENT BY
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IRS, in conjunction with the Treasury Inspector General (IG), has made substantial progress in responding to concerns about ethics and integrity at IRS. But the actions taken thus far can only be described as initial steps in a major long-term effort. IRS will need to maintain a high level of effort for several years to successfully carry out its plan to reshape IRS' culture.

A critical step IRS took to demonstrate that senior employee misconduct will be independently investigated was to transfer 21 staff years and $1.9 million to the IG. This strengthened the IG's role at IRS. When misconduct is alleged on the part of senior IRS managers or IRS Inspection employees, the IG now conducts any investigation that he believes is warranted. GAO concluded the IG handled 127 such allegations effectively. The IG's findings are returned to IRS for deciding whether to impose sanctions and which ones to apply. While GAO does not take issue with the actions IRS took in cases reviewed, GAO believes IRS could improve the perception that its decisions on sanctions are fair. It could publicize summary information about disciplinary actions taken against employees at all levels; periodically review disciplinary actions by type of infraction and level of employee to ensure they are equitably applied; and maintain National Office oversight while processing all IG findings.

GAO's survey of IRS employees indicates that it is important for IRS to continue its emphasis on ethics and integrity. Fewer than two-thirds of IRS employees believed that the level of integrity in IRS is generally high or very high; and 34 percent believed at least some upper-level managers engage in misconduct. GAO's survey also showed that 40 percent of IRS employees were not aware of IRS' Inspection Hotline and 74 percent were unaware of the Treasury Hotline as places to report misconduct. Although 76 percent said they would be generally willing to report misconduct if they became aware of it, only 23 percent of all employees believed that IRS would protect them (to a great or very great extent) from retaliation for reporting. Similarly, when asked the extent to which senior management fosters a climate for taking action against employees who breach ethical standards, only 23 percent believed such a climate is fostered to a great or very great extent. Further, 20 percent believed senior managers receive preferential treatment when IRS acts to correct misconduct.

IRS' ethics initiative is designed to address these issues. It will focus on communication, training, and integrity awareness.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the Internal Revenue Service's (IRS) efforts to deal with ethics and integrity issues. You requested that we review IRS' efforts to address integrity problems following your hearings on senior employee misconduct in July 1989. Our review had three parts. First, we analyzed key components of IRS' initial integrity action plan and IRS' other plans for improving its ethics programs. Second, we reviewed the Treasury Inspector General's investigations of alleged wrongdoing by senior IRS managers and Inspection employees. And third, we surveyed IRS employees for their views on IRS' efforts to promote a better climate for integrity awareness. While our testimony will highlight each of these areas, more details are provided in the appendixes and in a report to be issued today on our survey of IRS employees.

## IRS' INTEGRITY AND ETHICS PLANS

Problems identified by the Subcommittee prompted IRS to develop an integrity action plan. While the plan was a worthwhile and necessary first step, it largely consisted of administrative actions that broke little new ground. For example, the actions often called for revising procedures in the Internal Revenue Manual, sometimes to conform to existing practices. In other actions, IRS clarified or revised policies that had caused concern. For example, conflict of interest rules were changed to prohibit supervisors from entering into investment arrangements with subordinate employees.

Of far more significance, IRS has begun to implement a broader, long-term effort to enhance ethics and integrity programs. One by-product is an Ethics Plan. Its emphasis is on communicating values and objectives, improving ethics training, and monitoring and evaluating the level of ethical awareness and leadership. As a result, all IRS executives and managers are to complete ethics training by September 1991. A separate course is being developed for other IRS employees.

Another important part of IRS' plans involved the Treasury Inspector General.

## TREASURY INSPECTOR GENERAL'S ROLE AT IRS

The Subcommittee surfaced questions about how well IRS' Inspection Service investigated wrongdoing by senior IRS officials and Inspection employees. In response, IRS permanently transferred 21 staff years and $1.9 million to the Treasury Inspector General (IG) to do investigations and oversight. In our opinion, this was a critical step. It demonstrated a willingness to provide the resources needed for independent review--reviews which should bolster public and employee confidence that misconduct will be independently investigated. It also strengthened the IG's role at IRS.

In the beginning the IG referred some investigations back to IRS to do. The IG has since hired more staff. When misconduct is now alleged on the part of senior IRS officials or IRS Inspection employees, the IG conducts any investigation that he believes is warranted. There are still some cases the IG does not believe warrant investigation which he sends back for IRS management attention.

We reviewed the IG's records on 127 allegations against IRS employees; 63 were investigated and completed by April 30 and 64 were either closed without an investigation or sent back for IRS management attention. Based on our review of documentation in the 127 files and discussions with IG investigative managers, we believe the IG effectively developed and documented the vast majority of them. However, in 5 of the allegations, we believed that investigators could have done more work to determine the validity of an allegation or could have addressed other issues.

## IRS' Handling of the IG's Findings

After the IG has completed an investigation, IRS is still responsible for deciding whether, and if so which, sanctions to impose. We reviewed 63 such cases.

-- In 10, IRS took adverse action against an employee. These ranged from a downgrade and transfer to a counseling session.

-- In 16, no action was taken where the employee resigned or retired.

-- In 3 more retirement cases, IRS is trying to recoup funds owed the government.

-- In 16, IRS issued a letter clearing the employee of the allegation.

-- In 16, the cases were closed for various reasons without any action. An example is where the investigation was inconclusive.

-- And 2 are still pending.

We found no reason to take issue with the actions IRS took in these 63 cases. We did, however, observe that IRS used two paths for processing these cases and believe that this could give rise to a perception of disparate treatment. Our concern is that cases involving the most senior officials received more attention and oversight by the National Office. We believe that all cases referred to the IG are sensitive and should probably be processed and tracked in the same way.

IRS also planned two tracks for collecting information on disciplinary actions. The new Automated Labor Employee Relations Tracking System (ALERTS) is to keep track of cases pending a decision and provide information on how similar cases were handled in the past. While ALERTS is to cover all employees, information about managers at the grade 15 and higher are to be kept on a personal computer at the National Office. IRS' officials said they were concerned about the potential for misuse of the information if it were widely available. Here, too, we are concerned about the perception the dual track may create.

While ALERTS is too new to include much information, eventually it should enable IRS to analyze disciplinary actions taken by type of infraction and by level of employee. This will provide added assurance that sanctions are applied equitably. ALERTS should also enable IRS to publish summary information about disciplinary actions. IRS is studying ways of doing this while protecting the privacy of employees.

IRS' plans to mount a more aggressive ethics program are important, especially given the perceptions of IRS employees.

## SURVEY OF IRS EMPLOYEES

To gauge the views of IRS employees about integrity issues, we surveyed a random sample of them. We mailed the questionnaire in February 1991, 2 years after IRS began its ethics initiative. Over 2,200 employees responded--a response rate of 81 percent. Almost two-thirds of them believed that the level of integrity in IRS is generally high or very high; 10 percent believed the level of integrity is generally low or very low.

We also asked questions about misconduct. The questionnaire defined misconduct as including seven types of behavior, ranging from using official position or taxpayer information for personal gain to embezzling federal funds. Thirty-four percent of employees believed at least some upper-level managers engage in one or more of the 7 types of misconduct; 40 percent believed at least some mid-level employees engage in misconduct; and 47 percent believed at least some staff level employees engage in misconduct.

Seventy-five percent of employees were aware that they could report misconduct to a local IRS inspector. Far fewer were aware of other places to report misconduct. For example, 40 percent were unaware of the IRS Inspection Hotline and 74 percent were unaware of the Treasury IG hotline. Less than one-third of employees had great or very great confidence that either IRS Inspection or the Treasury IG acts independently or are committed to high quality investigations.

Nevertheless, 76 percent said they would be generally willing to report misconduct if they became aware of it. This response is reassuring because less than 25 percent believed IRS encouraged them to report misconduct and only 23 percent believed IRS would ensure to a great or very great extent that they would not be retaliated against. Upper level managers were more willing to report misconduct than staff level employees--92 percent compared to 73 percent.

Employee responses were less reassuring in the area of IRS' willingness to impose sanctions for misconduct. Only 23 percent of employees (ranging from 19 percent of staff to 50 percent of managers) believed that senior management fostered to a great or very great extent a climate for taking action against employees who breach ethical standards.

Similarly, concerning the issue of disparate treatment, 43 percent of employees believed senior management is generally not, or not at all, willing to punish their peers. Further, 20 percent of employees thought that upper-level managers received preferential treatment to a great or very great extent when IRS acts to correct misconduct. Interestingly, 6 percent also thought that lower-level staff receive such preferential treatment.

## CONCLUSIONS

IRS, in conjunction with the Treasury IG, has made substantial progress in responding to the concerns of the Subcommittee. The measures taken are initial steps in a major, long-term effort. IRS will need to maintain a high level of effort for several years to carry through on its ethics plans. These plans emphasize communication, training, ethics and integrity awareness. Our employee survey suggests that these areas of emphasis are well placed.

We also believe that IRS should proceed to do all it can to improve the perception that its decisions on sanctions are fair. IRS should publicize summary information about disciplinary actions taken against employees at all levels; periodically review disciplinary actions by type of infraction and level of employee to ensure they are equitably applied; and maintain the same level of National Office oversight for all the cases returned by the IG.

Mr. Chairman, that concludes my testimony. We will be pleased to answer any questions.

CONTENTS

## IRS' EFFORTS TO DEAL WITH INTEGRITY AND ETHICS ISSUES

The following sections discuss our views on various actions taken by IRS and the Treasury Inspector General (IG) in response to the concerns of the Subcommittee on Commerce, Consumer, and Monetary Affairs, House Committee on Government Operations. The Subcommittee surfaced these issues during hearings on senior employee misconduct in July 1989, and in an October 1990, Committee Report entitled Misconduct by Senior Managers in the Internal Revenue Service. As agreed with the Subcommittee, our work focused on key components of IRS' integrity action plan and the Treasury IG's investigations of alleged wrongdoing by senior IRS managers and Inspection employees. We also used a questionnaire to gather employee views on IRS' efforts to promote a better climate for integrity awareness.

In the course of our work we interviewed Treasury IG officials at Treasury headquarters and Inspection, Criminal Investigation, and Human Resources officials at IRS' National Office; three regional offices; and six district offices. We also reviewed IRS files and records about the implementation of IRS' integrity action plan and examined Treasury IG and IRS files concerning allegations of misconduct by senior IRS managers and Inspection employees. These allegations were referred to the IG between July 1989 and December 1990. In addition, we surveyed a representative sample of full-time IRS employees to obtain their views on various aspects of IRS' integrity systems and climate.

### TREASURY IG's ROLE AT IRS WAS SUBSTANTIALLY STRENGTHENED

The Subcommittee surfaced questions about the ability of IRS' Inspection Service to independently and adequately investigate wrongdoing by senior IRS officials and Inspection employees. In January 1990, IRS responded to these concerns by permanently transferring 21 staff years and $1.9 million to the Treasury IG. The IG's office was to use these resources in carrying out its authority to (1) oversee the operations of Inspection's Internal Security and Internal Audit Divisions, (2) investigate misconduct allegations about the Commissioner, the Deputy Commissioner, senior managers at grades 15 and above, and Inspection employees, and (3) do special reviews of IRS operations at the IG's discretion.

In our opinion, the transfer of funds and staff years to the IG was a critical step in demonstrating IRS' willingness to bolster public and employee confidence that misconduct will be independently investigated. It also strengthened the IG's oversight and investigative capabilities at IRS. Of the 21 staff years transferred to the IG, 11 were allocated to oversight of Inspection operations, and 10 were allocated to investigations. Although the IG's office initially had problems tracking the application of investigative resources at IRS, it has developed a new management information system to track staff time devoted to investigations at each of the Treasury bureaus.

## The IG Effectively Handled the Vast Majority of IRS Misconduct Allegations

We reviewed IG records and files pertaining to 127 allegations against IRS employees--63 allegations that were investigated and completed as of April 30, 1991, and 64 allegations that the IG either closed without an investigation or sent back to IRS for study and possible administrative action by IRS managers. We did not review IG files on 41 other investigations because, at the time of our review, they were still open. We also did not review 8 allegations that were closed without an investigation because the IG staff could not locate the documentation.

In our view, the IG properly handled the vast majority of the 127 allegations we examined and did an effective job developing and documenting its work. We did, however, have some minor concerns about the handling of 5 allegations. In our view, investigators could have done a more thorough job to determine the validity of the allegation, or could have addressed other issues during the investigation.

For example, in a case involving potential travel abuse, investigators did not appear to follow all possible leads to fully resolve whether an abuse occurred. In another case of alleged conflict of interest involving a joint investment by a supervisor and his subordinates, the IG confirmed that there was a joint investment, but closed the investigation because IRS did not, at that time, prohibit joint investments.[1] However, the IG did not examine the possibility that the joint investment situation could have been influencing personnel decisions.

## The IG No Longer Refers Investigative Work Back to IRS

In its October 1990, report, the Commissioner's Review Panel on IRS Integrity Controls expressed concern that the IG referred some investigations back to IRS' Inspection Service. For example, of the 63 investigations we reviewed, 33 were investigated by IRS' Internal Security Division and were

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[1]As discussed in Appendix II, IRS recently addressed the joint investment issue as part of its integrity action plan.

monitored, reviewed, and approved by the IG. These investigations were done by Internal Security, because, at that time, the IG did not have sufficient staff to do the work. Subsequently, the IG hired more staff and has not since sent investigative work back to IRS.

We asked the IG investigative staff about referring some allegations back to IRS for additional study and possible action by IRS managers. They told us that these allegations are sent back to IRS because the IG staff do not believe the allegations warrant an investigation, but should be dealt with by IRS managers. The IG staff said that, generally, the IG investigates criminal violations and "more serious" infractions by IRS officials and, given limited staffing, has to use its judgement in establishing priorities about what to pursue and what not to pursue. The IG's Office has also changed its procedures to require IRS to report back on actions taken on management issues; a response was not always required in the past.

Based on the allegations we reviewed, we do not believe the IG's actions are unreasonable.

## IRS IS TAKING STEPS TO DEMONSTRATE IT WILL DEAL FAIRLY WITH MISCONDUCT

The Subcommittee's investigation also disclosed that some employees believed a double standard existed which permitted senior managers to behave in a manner not tolerated for lower level employees. IRS acknowledges that a perception of a double standard exists and is studying ways to deal with the problem. For example, IRS is now considering the feasibility of providing employees information about disciplinary actions regarding executives, developing a communication strategy to provide information on how employees at all levels are to be treated with regard to ethics violations, and publishing summaries of the disposition of ethical issues involving employees. IRS is also examining the privacy issues associated with communicating this information. We believe that the privacy rights of individuals must be protected, but summary information about disciplinary actions should be disseminated to all employees.

IRS is also hopeful a new IRS-wide management information system will better help managers deal with misconduct issues. The Automated Labor Employee Relations Tracking System (ALERTS) is designed to enable IRS Labor Relations officials nationwide to (1) track the status of cases pending adjudication and (2) research actions taken on prior cases to provide guidance to IRS managers who are considering disciplinary action for similar offenses. Although ALERTS is to cover all actions regarding all

IRS employees, information about senior officials will not be on the same computer system as that for lower level employees. Instead, this information will be on a personal computer at the National Office because of IRS' concerns about ALERTS security, the high visibility of senior official misconduct cases, and the privacy rights of the relatively small number of senior officials in IRS.

We did not review ALERTS to determine whether the system will be effective in providing managers guidance for making disciplinary decisions. However, along with the information maintained at the National Office about senior officials, ALERTS could provide an excellent framework for summarizing information about sanctions applied to all employees. In this regard, IRS should move quickly to resolve privacy issues and publicize summary information about disciplinary actions concerning employees at all levels of the organization.

If ALERTS works as intended, it also has the potential to be a useful tool for overseeing IRS' adjudicative actions for all employees on a service-wide basis. As such, IRS and the IG could use ALERTS data to do periodic reviews of IRS' decisions and better assure that sanctions are adequately and equitably applied.

Procedure for Making Decisions About Senior Employee Misconduct Could Be Enhanced

Even with the transfer of investigative authority to the IG, IRS is still responsible for interpreting the results of IG investigations and for deciding whether or not to impose sanctions. Our examination of the 63 allegations that were investigated by the IG showed that IRS took an adverse action in 10 instances. These actions ranged from a downgrade and transfer, to a counseling session or a letter about the employee's behavior. No action was taken in 16 cases where the employees resigned or retired, but in three additional cases of this type, IRS is attempting to recoup funds owed the government. In 16 instances, IRS issued a letter stating that the employee was cleared of the allegation. The 18 remaining allegations are still being adjudicated or were closed by IRS for various reasons without any action.

We have no basis to question IRS' actions concerning the 63 investigations. We do, however, believe that IRS could improve its approach for making adjudicative decisions. As currently designed, IRS' method presents the possibility of disparate treatment among senior employees, and could contribute to a perception that disciplinary actions are inconsistently applied.

When the IG sends an allegation for management study or an investigative report to IRS, the position of the employee dictates that one of two processes will be used to deal with the case. The key difference in the processes relates to the roles of the Deputy Commissioner and the National Office Human Resources Division (HRD). Cases involving the most senior employees--Executives, Senior Executive Service, and a few grade 15s--are analyzed by HRD and reviewed by the management official who supervises the employee in question. This official then makes a recommendation to the Deputy Commissioner on what action to take. The Deputy Commissioner makes the final decision about the employee's punishment, if any, and reports the results back to the IG's office.

In cases involving less senior employees--most grade 15s--HRD does not normally analyze the case. The decision as to whether any punishment is imposed is made by the management official who has supervisory responsibility for the employee, such as a Regional Commissioner. Information on the action taken flows back to the National Office and, ultimately, to the Treasury IG.

IRS' National Office should exert strong oversight over all cases referred to IRS by the IG, not only those involving the most senior employees. In this regard, we believe the National Office HRD staff should be involved in the adjudicative process for all senior employees grades 15 and above.

## IRS NEEDS TO BETTER PROMOTE A CLIMATE THAT ENCOURAGES EMPLOYEES TO REPORT MISCONDUCT

The Subcommittee found that IRS employees were reluctant to report the misconduct of their superiors or cooperate in an investigation because of fear that their superiors would retaliate against them. In response, the Commissioner said that retaliation would not be tolerated and pointed out that "protection from retaliation goes to the heart of our integrity program." In an October 24, 1989 memorandum, the Commissioner notified all employees that IRS had established its Inspection hotline and informed them that they could also call the Inspector General Hotline. Afterwards, IRS' Inspection Service distributed posters to publicize the Hotline. Between August 16, 1989, and March 6, 1991, the Inspection hotline recorded 249 allegations--51 of which were referred to the Treasury IG.

Despite IRS efforts to promote reporting, 23 percent of the employees we surveyed during the early part of this year did not feel confident (to a great or very great extent) that IRS is willing to protect employees from retaliation. More importantly, approximately 23 percent of employees were not convinced that senior management promotes (to a great or very great extent) a climate that allows employees to come forward without fear of retaliation. Nonetheless, more than 75 percent of employees said that they would be generally or very willing to report serious misconduct if they became aware of it. The same percentage said that their willingness to report misconduct was about the same as it had been a year earlier.

Although employees said they are generally willing to report misconduct, their responses also indicated that they do not seem to be fully aware of the avenues available for reporting. Our questionnaire showed that, despite IRS efforts to publicize the Inspection Hotline, 40 percent of employees had not heard or read of the Hotline and about 74 percent had not heard or read about the Inspector General's Hotline. Although 75 percent of the employees knew that they could report misconduct directly to their local Inspector; 48 percent were unaware that they could report to the Regional Inspector; 66 percent were unaware that they could report to Inspection headquarters; and 81 percent were unaware that they could report to the Treasury IG.

In our view, IRS faces a difficult challenge allaying fears about retaliation and making employees aware of options for reporting wrongdoing. The Chief Inspector and the Ethics Program Executive said that they recognize the importance of these issues and are attempting to communicate to employees that they have the right to report and will be protected if they do so. In this regard, IRS plans to develop and publish an ethics manual which among other things, will discuss avenues for reporting and available protections. IRS is also considering ways to make employees more aware of the Office of Special Counsel and the Merit Systems Protection Board.

## IRS EMPLOYEES STILL LACK CONFIDENCE IN AND FAMILIARITY WITH INSPECTION OPERATIONS

The Subcommittee also surfaced concerns about the overall management of Inspection operations. In response, IRS' integrity action plan set forth a number of changes, listed in Appendix II, designed to improve the management of Internal Security investigations and enhance the image of Inspection throughout the agency. For instance, Internal Security changed its case management procedures to shore up case initiation, case assignment, and case documentation practices. Although these changes involved revisions to existing procedures, our work at selected field offices showed that they standardized some existing practices and may have increased employee awareness of case management responsibilities.

IRS also made improvements to its Internal Security Management Information System (ISMIS), which was the subject of an earlier

GAO report and testimony during the July 1989 hearings.[2] IRS' Internal Audit Division reviewed the new system and found that, despite the need for minor enhancements, ISMIS was providing accurate, timely, and useful information.

Now that IRS has strengthened Inspection operations, it needs to do a better job making employees aware that misconduct will be investigated by Inspection and the Treasury IG. IRS' integrity action plan contained an item to expand Inspection information sharing to develop increased awareness about the role of Inspection and the results of its activities. IRS' plan was to provide the information to IRS managers, who would then disseminate the information to their subordinates.

Despite Inspection's efforts, our questionnaire showed that 22 percent of the employees were either generally unfamiliar or very unfamiliar with the function of Inspection. The degree of unfamiliarity was lowest at grades 11 and below, where about 29 percent of employees were unfamiliar with Inspection. Our questionnaire also showed that about 69 percent of IRS employees were either generally unfamiliar or very unfamiliar with the function of the Treasury IG. Also, nearly 3 of every 4 employees said that they had not heard or read about the IG's responsibilities at IRS.

IRS also has to do a better job to improve Inspection's image and credibility. Our questionnaire showed that fewer than 30 percent of employees have great or very great confidence that Inspection acts independently of the rest of IRS. Fewer than 50 percent said that they had great or very great confidence that Inspection was committed to investigating misconduct.

Our survey further indicates that it is important for IRS to continue its emphasis on integrity concerns. Fewer than two-thirds of IRS employees believed that the level of integrity in IRS is generally high or very high; and 34 percent believed at least some upper level managers engage in misconduct. Further, 20 percent believed senior managers receive preferential treatment when IRS acts to correct misconduct.

## IRS CHANGED CRIMINAL INVESTIGATION PROCEDURES, BUT LARGER ISSUES REMAIN

A large part of the Subcommittee's investigation focused on misconduct by employees of IRS' Criminal Investigation Division (CID), which prompted a broader concern about oversight by senior

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[2] TAX ADMINISTRATION: IRS' Data on Its Investigations of Employee Misconduct, GAO/GGD-89-13; November, 1988.

IRS management. IRS addressed this issue in its integrity action plan by instituting a number of changes designed to tighten managerial control of CID field operations. Our review of action items pertaining to CID at the National Office and in selected field offices showed that most of the changes were revisions to CID manuals that generally codified existing practices.

For example, CID revised its guidelines to clarify the difference between surveillance activities and undercover operations. This step was taken to ensure that surveillance activities do not inadvertently evolve into undercover operations, which require strict controls for approval and execution. Now, CID field officials have clearer information, including lists of characteristics, to distinguish between surveillance and undercover activities. The action plan also prompted IRS to foster greater District Office oversight of CID field activities. For instance, IRS now requires District Director approval of certain expenditures by CID Chiefs and two levels of district review are required to initiate a criminal investigation. Appendix II discusses the CID integrity action items.

Although the integrity action plan addressed specific issues related to the Subcommittee's investigation, it did not address a larger concern, raised by the Commissioner's Review Panel on IRS Integrity Controls, concerning the extent to which authority to initiate and administer criminal investigations has been decentralized. In its October 1990, report, the Panel concluded that IRS' criminal investigation function requires centralized control to assure uniformity and fairness; establish appropriate investigative standards and techniques; achieve resource allocations that encourage voluntary compliance; and affect the assignment of employees in support of non-tax investigations directed by other agencies. In addition, the Panel made a number of recommendations to expand the National Office's responsibility for and direction of CID field offices and activities.

A Task Force is looking into some of the issues raised by the Panel. The Task Force, comprised of IRS, Treasury, and Justice Department officials, has finished its work, and at the time of our review, the Assistant Commissioner (Criminal Investigation) was planning to discuss the report's findings and recommendations with IRS' Executive Committee.

## IRS HAS BEGUN A MAJOR EFFORT TO IMPROVE ETHICS MANAGEMENT

Many of the problems identified by the Subcommittee highlighted weaknesses in IRS' ethics program and prompted IRS to address these issues as part of its integrity action plan. For example, the appearance of actual or perceived conflict of interest associated with dual career couples was dealt with by a new policy which allows a spouse to actively and openly seek a job through appropriate channels. Previously, job hunting for a spouse was done covertly and may have resulted in the appearance of unethical conduct. Also, conflicts of interest issues prompted IRS to prohibit supervisors from entering into investment arrangements with their subordinates. IRS has studied existing employee joint investments and believes that they are in the process of being resolved.

IRS has also begun to implement a broader, long-term effort to enhance ethics and integrity programs. The Strategic Initiative on Ethics was first announced in early 1989. In October 1990, IRS issued a report which set forth recommendations to establish a comprehensive ethics program; communicate values and objectives; improve ethics training; and monitor and evaluate the level of ethical awareness and leadership. Shortly thereafter, IRS announced that the Assistant Commissioner (Human Resources and Support) would be the new Ethics Program Executive.

In March 1991, IRS published an Ethics Plan which requires IRS offices nationwide to complete actions on 67 recommendations and calls for National Office functions and field offices to develop plans of their own. The Ethics Program Executive is responsible for management planning and direction of the Service's comprehensive ethics program and will oversee and evaluate the program's implementation through Annual Business Reviews and other measurement systems.

Among other things, the ethics plan calls for IRS to develop and deliver service-wide and localized ethics training. For example, IRS hired the Josephson Institute on Ethics to develop comprehensive ethics training. All executives and managers are to complete the training by September 1991. A separate course will be developed for the remaining IRS employees. CID also developed a supplementary ethics training program specifically designed for criminal investigation situations.

The ethics plan also calls for IRS offices to institute new methods of increasing ethics awareness and communicating ethical precepts. For instance, headquarters and regional offices now require that a senior manager administer the oath of office to new employees to emphasize the seriousness of ethical issues. IRS is also examining new ways to communicate ethical precepts, such as newsletters and increased dialogue on the rules of conduct. The National Office also plans to develop an ethics resources guide to serve as a reference for assisting employees with ethical concerns.

## CONCLUSIONS

IRS has made substantial progress toward improving its ethics programs. While the initial integrity action plan was a worthwhile and necessary first step, it largely consisted of administrative actions that broke little new ground. The Strategic Initiative with its corresponding Ethics Plan, is far more significant. It provides an emphasis on communication, ethics and integrity awareness and ethics training, and will attempt to instill ethical values from the top down. As our survey showed, IRS' emphasis on communication is well placed.

Other specific steps IRS could take are to:

-- move quickly to resolve privacy issues and publicize summary information about disciplinary actions concerning employees at all levels of the organization,

-- work with the Treasury IG to do periodic reviews of IRS disciplinary actions and provide assurances that sanctions are adequately and equitably applied,

-- consider greater oversight by the National Office Human Resources Division in all cases involving grades 15 and Inspection employees, and

-- develop and implement better methods for communicating with employees, especially in regard to avenues for reporting misconduct and awareness about the Inspection Service and the Treasury IG and their functions at IRS.

## SUMMARY OF GAO'S REVIEW OF SELECTED ITEMS FROM IRS' INTEGRITY ACTION PLAN

In March 1990, the subcommittee asked GAO to evaluate IRS' response to employee integrity problems identified in the July 1989 hearings. Specifically, we were asked to examine the IRS integrity Action plan, monitor the plan's implementation and determine the status of the action items. We selected 32 action items for detailed review. Eight of the items were related to the Inspection service, 14 were related to the Criminal Investigation Division, 8 were related to IRS Human Resources function and two are miscellaneous items.

We met with officials in the National Office, three Regional Offices and six District Offices. We sought opinions from Assistant Commissioners, Regional Commissioners, Assistant Regional Commissioners (Criminal Investigation and Human Resources), the Chief Inspector, Regional Inspectors, District Directors, Criminal Investigation Chiefs and Resource Management Chiefs on IRS manual changes, and the status of action items which implemented the plan and the impact the change had on operations. Also, we reviewed criminal investigation case files, grievance records, and business plans to assess the action plan's implementation. The following briefly discusses IRS' Actions on the items we reviewed.

Inspection Service Action Items

1. IRS Hotline - IRS began a hotline to provide an easy method for employees to anonymously report misconduct of other employees without fear of retribution. The National Office provided posters and an announcement of the hotline to employees.

2. Organizational Status of Inspection - This action item ensures that the Assistant Commissioner - Inspection is viewed as independent and autonomous within IRS. The title was elevated to Chief Inspector.

3. Internal Security Management Information System (ISMIS) - This action item established accountability and a specific time frame to implement ISMIS. The system is up and running.

4. Case Initiation Procedures- This eliminated the "reliable source" criteria necessary to open conduct cases. Previously cases required a specific allegation against a specific individual made by an identified source. Cases are now opened based on anonymous tips which make a specific allegation(s)

against a specific individual(s). This change has not greatly increased the number of cases Inspection opened.

5. Case Assignment Practices - This item provided written guidance to ensure that Inspection Service managers recognize and avoid potential conflicts of interest when assigning staff to cases. This action formally stated IRS' existing policy. In the regions we visited, the Regional Inspectors stated that this has not effected the number of requests for recusals.

6. Case Documentation - This action item required Inspections personnel to document all U.S. Attorney case declinations, oral and written, in its case files.

7. Expand Inspection Information Sharing - The action item was designed to increase awareness among managers about the functions and results of the Inspection Service. Regional Inspectors stated that they have been providing this information and managers are responsible for its dissemination.

8. Review Changes to CID Rules to Assure Conformity - The purpose of this item was to ensure uniformity and consistency between Inspections and CID procedures in similar investigative activities such as surveillance and undercover operations. Inspections procedures have been reviewed to assure consistency with CID procedures. As a result of this review, the Inspection guidelines are being revised to have policy conform with CID procedures.

Criminal Investigation Division Action Items

1. Responsibility of District Director Over CID Activities- This item clarified the responsibilities of District Directors with regard to daily CID activities. The intent was to lessen the potential for abuse of power by CID Chiefs due to their independence. This action item resulted in the revision of Document 7012, which details the District Director's responsibility over CID activities.

2. Financial Controls on Undercover Operations - This action item was to correct the shortcomings of financial controls over undercover business operations by involving the Controller. IRS changed the financial controls over its undercover business operations in April 1991. It is too early to determine their effectiveness.

3. Undercover Guidelines - This was to ensure a high quality undercover program and lessen the potential for ethical and integrity failures within that program. The guidelines were updated, but it is too early to tell how they will affect operations.

4. Surveillance Guidelines - This item was developed to place systemic checks on surveillance cases so that they do not become undercover cases without proper authorization. The Internal Revenue Manual was changed to differentiate between surveillance and undercover cases. In the three regions we reviewed, no surveillance cases had been converted to undercover cases in 1990.

5. Controls and Approvals Over Case Procedures - This action item was designed to address the problem of insufficient systemic checks and balances on the activities of CID personnel. It requires two levels of management review to open an investigation. The action item increased internal controls and management involvement in case initiation and disposition.

6. CID Chief Confidential Expenditures - The action item prevents CID Chiefs from abusing the authority to expend confidential funds by requiring the approval of the District Director. In the six districts in our review, IRS officials stated that CID Chiefs did not expend confidential funds.

7. Reporting Unusual Issues- This action item is to promote coordination of high level management on unusual activities which may arise in a district. It required District Directors to report any such issues to Regional Commissioners and through

Regional Commissioners to the National Office. IRS provided examples but did not provide an official definition of unique and unusual issues nor specify a timeframe for reporting.

8. Retention and Disposal of Documents - This action item was to provide more effective internal controls and guidance over the storage and destruction of documents. The Internal Revenue Manual was changed to require managerial review before destruction and a record of the destruction. Also, the National Office developed some training on document retention.

9. Conflicts of Interest- Recusation - The purpose of this action item was to clarify rules and guidelines on recusal requirements. In addition, denials of recusal requests must now be documented. In 1990, IRS had not denied any recusal requests in the Regions we reviewed.

10. Diaries and Chronological Worksheets - This action item was to ensure that District CID personnel recorded their activities. Diary review will create a paper trail that can be used to respond to questions about activities. We checked two Regions and found that IRS is adhering to this requirement.

11. Managerial Participation in Field Cases- This action item was to provide better control over CID Chiefs when they become too involved in an investigation. District Directors were given more accountability for reviewing and controlling CID activities. In the Districts we visited, CID Chiefs were not heavily involved in investigative activities.

12. CID Training on Ethical Issues - This item was to provide supplementary ethics training for CID employees. CID employees face different ethical dilemmas than other IRS employees. National CID training course materials on ethical issues were recently finalized.

13. IRM Guidelines on Ethical Issues - The action item was to improve integrity and ethics awareness among CID employees. The Internal Revenue Manual was revised to emphasize adherence to IRS Rules of Conduct.

14. Consistency - IRM and Training Manuals - The action item was to ensure that day-to-day instructions and the special agent training manual are consistent. IRS reviewed the manuals and updated all inconsistent passages on the use of informants and trial preparation.

Human Resources Action Items

1. Policy on Hiring Family Members - The action item established a policy on personnel actions involving dual career couples while affirming anti-nepotism rules. Through appropriate channels, available jobs can be provided to the spouse of a person who is transferring (lateral or upward). There is no data to determine the number of dual career couples. IRS has implemented this policy.

2. Policy on the Rotation of Managers - The proposed policy's purpose was to avoid potential abuses of power by mandating manager rotation. IRS decided not to implement a mandatory rotation policy for managers because of the potential cost and personnel considerations associated with moving managers on a recurring basis. Managers are encouraged to rotate for advancement purposes.

3. Agency Grievance Procedures for non-bargaining employees - This action item improved the timeliness of grievance procedures. However there were too few grievances to assess the effectiveness of the action item. Also, appeal decision memoranda are now required to address the rationale for the decisions made. The IRS manual was changed to allow grievance examiners to accept information under a pledge of confidentiality.

4. Background Investigations - This item established new time frames for the completion of background investigations for personnel in non-critical/sensitive positions. It also prohibited critical/sensitive personnel from beginning work before completion of a background investigation. In two of the Regions we visited, background investigations were completed for critical/sensitive personnel before they began work. Data was not available for the third Region. For the other employees, it was too soon to determine the effectiveness of the item.

5. Rules of Conduct (Joint Investments) - This item prohibited future joint investments by a supervisor and a subordinate. IRS studied existing joint investments reported by employees and believes the problems are in the process of being resolved.

6. Rules of Conduct List of (Sanctions) - IRS set out to determine if it would be appropriate to develop a list of sanctions for violations of the Rules of Conduct. The goal was to deter the possibility of inconsistent treatment of employees who have committed similar offenses. IRS has not adopted a specific list of sanctions to use in instances of misconduct. IRS developed the ALERTS system, a database of all actions taken

against conduct violators. It is intended as guidance for agency officials in determining sanctions.

7. NTEU Relationship - This item was to ensure open and complete communications with a designated representative of IRS rank and file employees. It also provided for NTEU officials to communicate regularly with the Commissioner.

8. Information to Employees - The intent was to promote communication of ethical issues within IRS and to alert employees to all efforts conducted under the Strategic Initiative. IRS has provided ethics information in its management newsletters and has discussed the Initiative at management meetings.

Miscellaneous Action Items

1. Issues into Ethics Initiative (ERR-17) - This item was to ensure that issues which surfaced during the Subcommittee's investigation were included in the Strategic Initiative. In November 1990, IRS issued a report which set forth recommendations to establish a comprehensive ethics program; communicate values and objectives; improve ethics training; and monitor and evaluate the level of ethical awareness and leadership. IRS is also continuing to consider many of the subcommittees concerns as part of the Ethics Action Plan.

2. Business Reviews on Ethical Concerns- This provided a review mechanism to ensure adherence to new policies and procedures involved in the Integrity Action Plan. The method of evaluating ethics in the business review process was inconsistent in the Districts we visited. The amount of emphasis on the ethics initiative varied.

File with T-GGD-91-58



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BACKGROUND:

Pursuant to a congressional request, GAO provided information on Internal Revenue Service (IRS) employees' views on IRS efforts to: (1) promote a climate of integrity awareness; and (2) encourage reporting of misconduct without fear of retaliation.

FINDINGS:

GAO found that: (1) the 81-percent response rate to the surveys it mailed to 2,700 full-time IRS employees allowed it to project results to the universe of all IRS employees; (2) two-thirds of employees believed that the level of integrity was high or very high, while 10 percent of employees characterized it as low or very low; (3) more employees believed that misconduct occurred at lower ranks than at higher ranks; (4) although 75 percent of employees were aware that they could report misconduct to local IRS inspectors, many were not aware of other places to report misconduct; (5) many employees, especially those in the lower ranks, were not aware of IRS efforts to improve integrity; (6) 93 percent of employees who did not fear retaliation were willing to report misconduct; (7) less than 25 percent of employees believed that IRS encourages them to a great extent to report misconduct; (8) a third of employees believed that those who reported misconduct are retaliated against to some, little, or no extent; (9) only 23 percent of employees believed that IRS was willing to ensure to a great extent that retaliation does not occur; (10) less than a third of employees had great confidence in the independence or high quality of IRS inspections or Department of the Treasury Inspector General investigations; and (11) 23 percent of employees believed that senior management fostered to a great extent a climate for taking action against employees who breach ethical standards.